

146

United States
Circuit Court of Appeals
For the Ninth Circuit.

NATIONAL PACIFIC OIL COMPANY, a Corporation,
Appellant,
vs.

THE UNITED STATES OF AMERICA,
Appellee.

Transcript of Record.

Upon Appeal from the United States District Court for the
Southern District of California, Northern Division.

Filed

NOV 1 - 1915

E. D. Monckton,
Clerk.

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INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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Names and Addresses of Attorneys.

For Appellant:

A. L. WEIL, Esq., 1206 Alaska Commercial Building, San Francisco, California.

For Appellees:

THOMAS W. GREGORY, Esq., Attorney-General of the United States, Washington, D. C.;

ALBERT SCHOONOVER, Esq., U. S. Attorney, Los Angeles, California; and

E. J. JUSTICE, Esq., Special Assistant to the Attorney-General, Postoffice Building, San Francisco, California. [3*]

[Citation on Appeal (Original).]

UNITED STATES OF AMERICA,—ss.

The President of the United States, to the United States of America, Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, in the State of California, within thirty days from the date hereof; pursuant to an order allowing an appeal, of record in the Clerk's Office of the United States District Court for the Southern District of California, Northern Division, Ninth Circuit, wherein the National Pacific Oil Company is appellant, and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant, as in the said order allowing appeal mentioned should not be corrected, and why speedy justice should not be done to the parties in that behalf.

*Page-number appearing at foot of page of certified Transcript of Record.

WITNESS, the Honorable M. T. DOOLING, United States District Judge for the Northern District of California, this 21st day of May, A. D. 1915.

M. T. DOOLING,

United States District Judge. [4]

Service accepted this 26 day of May, 1915.

E. J. JUSTICE.

P.

United States of America,—ss.

On this 26th day of May, in the year of our Lord one thousand nine hundred and fifteen, personally appeared before me, Flora Hall, Notary Public in and for the City and County of San Francisco, the subscriber, Charles M. Weile, and makes oath that he delivered a true copy of the within citation to United States of America, delivered to E. J. Justice, Solicitor for the within named plaintiff.

CHARLES M. WEILE.

Subscribed and sworn to before me at San Francisco, Cal., this 26th day of May, A. D. 1915.

[Seal] FLORA HALL,

Notary Public in and for the City and County of San Francisco, State of California.

[Endorsed]: No. A-2.—In Equity. United States District Court, for the Southern District of California, Northern Division, Ninth Circuit. National Pacific Oil Company, Appellant, vs. The United States of America. Citation on Appeal. Filed Jun. 1, 1915. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk.

*In the District Court of the United States, in and for
the Southern District of California, Northern
Division.*

No. A-2—EQUITY.

THE UNITED SEATES OF AMERICA,

Plaintiff,

versus

CONSOLIDATED MIDWAY OIL COMPANY,
National Pacific Oil Company, Midnight Oil
Company, Daybreak Oil Company, Panama
Oil Company, France Wellman Oil Company,
Standard Oil Company, Thirty Thirty-Two
Land Company, General Petroleum Company,
Maricopa Consolidated Oil Company, General
Pipe Line Company of California, Title In-
surance and Trust Company, Sesame Oil Com-
pany, Parker Barrett, Oma Barrett, Julius
Fried, J. M. Dunn, L. E. Doan, George E.
Whitaker, M. J. Laymance, Mary F. Francis,
A. L. Weil, Florence G. Weil, J. M. Danziger,
Daisy C. Danziger, M. P. Waite, Anna W.
Mary Waite, Charles A. Son, David S. Bach-
man and A. B. Coulson,

Defendants. [5]

No. A-2—EQUITY.

In the District Court of the United States, Southern District of California, Northern Division, Ninth Circuit.

THE UNITED STATES OF AMERICA,
Plaintiff,

vs.

CONSOLIDATED MIDWAY OIL COMPANY,
NATIONAL PACIFIC OIL COMPANY
et al.,

Defendants.

Bill of Complaint.

GEORGE W. WICKERSHAM,
Attorney-General of the United States.

A. I. McCORMICK,
United States Attorney.

B. D. TOWNSEND,

Special Assistant to the Attorney-General.

Filed Feb. 18, 1913. Wm. M. Van Dyke, Clerk.
By Chas. N. Williams, Deputy Clerk. [6]

In the District Court of the United States, Southern District of California, Northern Division, Ninth Circuit.

THE UNITED STATES OF AMERICA,
Plaintiff,
versus

CONSOLIDATED MIDWAY OIL COMPANY,
National Pacific Oil Company, Midnight Oil
Company, Daybreak Oil Company, Panama

Oil Company, France Wellman Oil Company, Standard Oil Company, Thirty Thirty-Two Land Company, General Petroleum Company, Maricopa Consolidated Oil Company, General Pipe Line Company of California, Title Insurance and Trust Company, Sesame Oil Company, Parker Barrett, Oma Barrett, Julius Fried, J. M. Dunn, L. E. Doan, George E. Whitaker, M. J. Laymance, Mary F. Francis, A. L. Weil, Florence G. Weil, J. M. Danziger, Daisy C. Danziger, M. P. Waite, Anna W. Mary Waite, Charles A. Son, David S. Bachman and A. B. Coulson,

Defendants.

To the Judges of the District Court of the United States for the Southern District of California, Sitting Within and for the Northern Division of Said District;

The United States of America, by George W. Wickersham, its Attorney-General, presents this, his Bill in Equity, against Consolidated Midway Oil Company, National Pacific Oil Company, Midnight Oil Company, Daybreak Oil Company, Panama Oil Company, France Wellman Oil Company, Standard Oil Company, Thirty Thirty-Two Land Company, General Petroleum Company, Maricopa Consolidated [7] Oil Company, General Pipe Line Company of California, Title Insurance and Trust Company, Sesame Oil Company, Parker Barrett, Oma Barrett, Julius Fried, J. M. Dunn, L. E. Doan, George E. Whitaker, M. J. Laymance, Mary F. Francis, A. L. Weil, Florence G. Weil, J. M. Danziger,

Daisy C. Danziger, M. P. Waite, Anna W. Mary Waite, Charles A. Son, David S. Bachman and A. B. Coulson (citizens and residents, respectively, as stated in the next succeeding paragraph of this bill), and in that behalf the plaintiff complains and alleges:

I.

Each of the defendants Consolidated Midway Oil Company, France Wellman Oil Company and Maricopa Consolidated Oil Company now is, and at all the times hereinafter mentioned as to it was, a corporation organized under the laws of the former territory, now State, of Arizona, and is a resident and citizen of said State.

Each of the defendants, National Pacific Oil Company, Midnight Oil Company, Daybreak Oil Company, Panama Oil Company, Standard Oil Company, Thirty Thirty-Two Land Company, General Petroleum Company, General Pipe Line Company of California, Title Insurance and Trust Company and Sesame Oil Company now is, and at all the times hereinafter mentioned as to it was, a corporation organized under the laws of the State of California, and is a resident and citizen of said State.

Each of the defendants, Parker Barrett, Oma Barrett, Julius Fried, J. M. Dunn, L. E. Doan, George E. Whitaker, M. J. Laymance, Mary F. Francis, A. L. Weil, Florence G. Weil, J. M. Danziger, Daisy C. Danziger, M. P. Waite, Anna W. Mary Waite, Charles A. Son, David S. Bachman and A. B. Coulson, is a resident and citizen of the State of California. The defendant, Mary F. Francis now is, at all times since January 16, 1909, has been, a widow.

The defendant, A. L. Weil, is the husband of the defendant Florence G. Weil. The defendant, J. M. Danziger, [8] is the husband of the defendant Daisy C. Danziger. The defendant, M. P. Waite, is the husband of the defendant Anna W. Mary Waite.

The defendants A. L. Weil, Florence G. Weil, J. M. Danziger, Daisy C. Danziger, N. P. Waite, Anna W. Mary Waite, Charles A. Son and David S. Bachman are sued in their own right, respectively, and also as trustees under a certain purported trust deed hereinafter mentioned.

The defendant Title Insurance & Trust Company is sued in its own right, and also as trustee, under a certain purported mortgage deed hereinafter mentioned.

Certain of the defendants are described herein otherwise than by Christian name for the reason that the Christian name of each of said defendants is unknown to the plaintiff.

II.

The plaintiff now is, and ever since the Treaty of Guadaloupe Hidalgo has been, the owner and entitled to the immediate and exclusive possession and enjoyment of all of the land next hereinafter described, and of all mineral oil, petroleum, gas and other minerals therein contained, said land being particularly described as follows, to wit: All of fractional section thirty, township twelve north, range twenty-three west, San Bernardino base and meridian, situated in Kern County, State of California. All of said land at all said times has been, and now is, a part of the public domain of the United States, ex-

cept as withdrawn and reserved from entry as hereinafter alleged. All of said land now is, and at all times has been, oil-bearing land, containing rich deposits of petroleum or mineral oil and gas in commercially paying quantities, and at all times has been, and now is, chiefly valuable for the petroleum or mineral oil and gas deposited therein, and has never contained any minerals other than petroleum or mineral oil and gas. [9]

On September 14, 1908, the Secretary of the Interior of the United States of America, duly and regularly withdrew and reserved the land hereinbefore described (together with other contiguous public lands) from settlement, entry or purchase under the agricultural land laws of the United States for the purpose of examining and classifying said lands.

On June 9, 1909, the land hereinbefore described together with other contiguous public lands) was duly and regularly classified by the Secretary of the Interior as petroleum—or oil-bearing lands, which said order of classification ever since last-named date has been, and still is, in full force and effect.

On September 27, 1909, the President of the United States, acting by and through the Secretary of the Interior, and under the authority legally invested in him so to do, duly and regularly withdrew and reserved all of the land hereinbefore particularly described (together with other contiguous public lands) from mineral exploration, and from all forms of location, settlement, selection, filing, entry or disposal under the mineral or nonmineral public land laws of

the United States; and since said last-named date none of said land has been subject to exploration for minerals or to the initiation of any right under any of the public land laws of the United States.

On July 2, 1910, the President of the United States, under the authority legally invested in him so to do, and especially by virtue of the provisions of the Act of Congress approved June 25, 1910, entitled "An Act to Authorize the President of the United States to Make Withdrawal of Public Lands in Certain Cases" (36 Stat. 847), duly and regularly ratified, affirmed and continued in full force and effect said order of withdrawal [10] and reservation of September 27, 1909, and did further withdraw and reserve all of said land from mineral exploration and from all forms of location, settlement, selection, filing, entry or disposal under the mineral or nonmineral public land laws of the United States, subject only to the provisions of said Act of Congress. Each of said orders of withdrawal and reservation, ever since the dates thereof, respectively, has been, and now is, in full force and effect.

Notwithstanding the premises, and in violation of the proprietary and other rights of this plaintiff, and in violation of the laws of the United States and the lawful orders and proclamations of the President of the United States, the defendants herein, subsequent to January 1, 1910, entered upon the land hereinbefore particularly described, pretended to acquire, and now assert, mineral rights therein, or some part thereof, and have committed and are now committing trespass and waste thereupon, as more particularly

hereinafter set forth.

IV.

On March 1, 1910, the defendant Consolidated Midway Oil Company wrongfully and unlawfully and in violation of the proprietary and other rights of this plaintiff, entered upon the land hereinbefore described, and thereafter drilled and caused to be drilled an oil well thereupon, and thereafter operated said oil well, and extracted from said land and appropriated to its use large quantities of petroleum or mineral oil and gas.

During the month of December, 1910, said defendant Consolidated Midway Oil Company surrendered possession of said oil well to the defendant National Pacific Oil Company, and ever since said last-named date the defendant National Pacific Oil Company wrongfully and unlawfully and in violation of the proprietary and other rights of this plaintiff, has operated and still is operating said oil well, and has drilled and caused to [11] be drilled other oil wells upon said land, and has operated and still is operating said last-mentioned oil wells, and has extracted from said land and appropriated to its use large quantities of petroleum or mineral oil and gas.

Subsequent to July 5, 1910, the defendant Midnight Oil Company wrongfully and unlawfully and in violation of the proprietary and other rights of this plaintiff, entered upon said land, and thereafter drilled and caused to be drilled an oil well or oil wells thereupon, and thereafter has operated and still is operating said oil well or oil wells, and has extracted from said land and appropriated to its use large

quantities of petroleum or mineral oil and gas.

Subsequent to July 5, 1910, the defendant Day-break Oil Company wrongfully and unlawfully, and in violation of the proprietary and other rights of this plaintiff, entered upon said land, and thereafter drilled and caused to be drilled an oil well or oil wells thereupon, and thereafter has operated and still is operating said oil well or oil wells, and has extracted from said land and appropriated to its use large quantities of petroleum or mineral oil and gas.

Subsequent to July 5, 1910, defendant Panama Oil Company wrongfully and unlawfully, and in violation of the proprietary and other rights of this plaintiff, entered upon said land, and thereafter drilled and caused to be drilled an oil well or oil wells thereupon, and thereafter has operated and still is operating said oil well or oil wells, and has extracted from said land and appropriated to its use large quantities of petroleum or mineral oil and gas.

The five defendants last hereinbefore mentioned are hereinafter described collectively as "operators."

Said operators entered upon said land, drilled oil wells thereupon, and extracted and are extracting petroleum or mineral [12] oil and gas therefrom as aforesaid, claiming the right so to do under and by virtue of a certain pretended notice of mining location purporting to have been signed by the defendants Parker Barrett, Oma Barrett, J. M. Dunn and others, which was recorded on July 27, 1908, in book 31 of Mining Records, at page 156, in the office of the County Recorder of Kern County, California, by which said notice of mining location an interest

in all of said land and the right to extract minerals therefrom were asserted under the placer mining laws of the United States, and said operators claim by right of succession from said original pretended locators, by virtue of some pretended conveyances, leases or assignments, and not otherwise.

Said pretended notice of mining location will hereinafter be mentioned as the "D and B Placer Mining Location," and said pretended locators as the "D and B Locators."

The defendants Parker Barrett, Oma Barrett, Julius Fried and J. M. Dunn claim some right, title or interest in said land and the right to extract minerals therefrom under said "D and B Placer Mining Location," either as original locators thereof, or by virtue of some pretended conveyances, leases or assignments from certain of the aforesaid "D and B Locators." Each of the defendants France Wellman Oil Company, L. E. Doan and George E. Whitaker, claims some right, title or interest in or to said land, and the right to extract minerals therefrom, by virtue of some pretended conveyances, leases or assignments from said "D and B Locators" or their pretended successors in interest.

The defendant General Pipe Line Company of California claims some right, title or interest in or to said land by virtue of a certain pretended conveyance by one J. M. McLeod to one C. W. Waller, dated January 24, 1910, purporting to convey to said C. W. Waller the right to construct, maintain [13] and operate pipes and conduits for the transportation and distribution of petroleum and other mineral

oils, gas and water, and to construct, maintain and operate telegraph and telephone lines over, through, under and along said land or some part thereof; also by virtue of a certain pretended conveyance dated April 19, 1912, purporting to be executed by said C. W. Waller and Rose A. Waller, his wife, wherein and whereby said C. W. Waller and Rose A. Waller purported to convey unto the said General Pipe Line Company of California all of the alleged rights of said C. W. Waller under the aforesaid purported conveyance executed by said J. M. McLeod to said C. W. Waller.

The defendant Title Insurance and Trust Company claims some right, title or interest in or to, or lien upon, said land, by virtue of a certain instrument in writing dated March 7, 1911, purporting to have been executed by the defendant Consolidated Midway Oil Company, wherein and whereby the defendant Consolidated Midway Oil Company purported to mortgage to said Title Insurance and Trust Company certain of the aforesaid land (together with other land) to secure the payment of a certain indebtedness purported to be owing by said defendant Consolidated Midway Oil Company to the defendant A. B. Coulson.

The defendant A. B. Coulson claims some right, title or interest in or to, or lien upon, said land, by virtue of the instrument last herein described.

The defendant Sesame Oil Company claims some right, title, or interest in or to, or lien upon, said land or some part thereof, by virtue of a certain pretended attachment lien asserted under a certain writ of at-

tachment issued out of the Superior Court of the city and County of San Francisco, State of California, in a certain suit instituted by said defendant Sesame Oil Company against the defendant Consolidated Midway Oil Company, pursuant to a certain notice of attachment recorded [14] on May 5, 1911, in book 4 of Attachments, at page 489, in the records of Kern County, State of California.

V.

Each of the defendants Thirty Thirty-Two Land Company, General Petroleum Company, Maricopa Consolidated Oil Company, and Mary F. Francis claims some right, title or interest in or to said land or some part thereof by virtue of a certain pretended notice of mining location purporting to have been signed by one John Conley, one Josephine Conley, one A. E. Brown, one James Hawley, one Ira P. Goodwin, and one L. P. Brown, bearing date January 1, 1906, and recorded January 2, 1906, in book 42 of Mining Records, at page 111, in the records of Kern County, State of California. Said pretended notice of mining location will hereinafter be mentioned as the "Headlight Placer Mining Location."

Each of the defendants A. L. Weil, Florence G. Weil, J. M. Danziger, Daisy C. Danziger, M. P. Waite, Anna W. Mary Waite, Charles A. Son and David S. Bachman claims some right, title or interest in or to said land or some part thereof, or lien thereupon, individually and also as trustee for the defendant Thirty Thirty-Two Land Company, under some pretended conveyance or deed of trust, further particulars whereof are unknown to the plaintiff.

VI.

No work of exploration or development for the discovery of petroleum, mineral oil or gas, or any other mineral, was ever commenced or prosecuted, in good faith or otherwise, or at all, upon any part of said land under either of said placer mining claims hereinbefore described, or otherwise, by or on behalf of said "D and B Locators" or said "Headlight Locators," or either or any of them, or any of their alleged successors in interest, or any of the defendants herein, or otherwise, or at [15] all, prior to January 1, 1910.

No discovery of any mineral (other than petroleum or mineral oil and gas) has ever been made in or upon any part of said land. Neither petroleum, mineral oil nor gas was ever discovered in or upon any part of said land prior to June 29, 1910; and because of the premises of this bill, no valid discovery of petroleum, mineral oil or gas (within the meaning of the mineral land laws of the United States) was ever made in or upon any part of said land.

No valid location or entry of or claim to said land, or any part thereof, under any public land law of the United States, or otherwise, was ever made or acquired by said "D and B Locators," said "Headlight Locators," or either or any of them, or by any of their alleged successors in interest, or by the defendants herein, or either or any of them, or by any person or persons, corporation or corporations, or at all.

Except as set forth in this bill, no claim of any right, title or interest in or to, or lien upon, any of

said land, or to the use or possession thereof, or to any of the minerals therein contained, is asserted by or on behalf of any person or persons, corporation or corporations, or at all.

Each and all of the claims asserted by the defendants herein, and each of them, in or to said land, or any part thereof, or the use or possession thereof, or the minerals deposited therein, are based solely upon the pretended placer mining locations hereinbefore described.

Prior to January 1, 1910, no person or association or corporation was a *bona fide* occupant or claimant of any part of said land, engaged in the diligent or other prosecution of work leading to the discovery of oil or gas, or any other mineral.

VII.

Each of the defendants described in paragraph IV hereof [16] as "operators" now continue, and threaten and unless restrained therefrom will continue, to operate the aforesaid oil wells and extract from said land petroleum or mineral oil and gas in large quantities, and will drill other oil wells upon said land and operate the same and extract from said land petroleum or mineral oil and gas, and otherwise commit trespass and waste upon said land, to the great and irreparable injury of this plaintiff.

VIII.

The plaintiff does not know the exact quantity of petroleum, mineral oil or gas extracted from said land and appropriated by the defendants hereinbefore described as "operators," or any of them, as aforesaid, and has no means of ascertaining the true

facts in the premises except from the defendants; therefor a full discovery in the premises is sought herein.

Plaintiff is informed and believes, and therefore alleges, that a large part, if not all, of the petroleum or mineral oil and gas extracted from said land and appropriated by said "operators" as aforesaid, was by said "operators" respectively sold to the defendant Standard Oil Company and was by said defendant Standard Oil Company appropriated to its own use and benefit. The plaintiff does not know the exact quantity of petroleum or mineral oil and gas sold to and appropriated by the defendant Standard Oil Company as aforesaid, nor the price paid therefor, and has no means of ascertaining the true facts in the premises except from the defendants herein; therefore a full discovery in the premises is sought herein.

The plaintiff does not know the exact quantity of petroleum or mineral oil and gas, if any, sold by said "operators," or any of them, to parties other than the defendant Standard Oil Company, or the name or names of said purchaser or purchasers, [17] if any, or the price received therefor, and has no means of ascertaining the true facts in the premises except from the defendants herein; therefore a full discovery in the premises is sought herein.

IX.

Each of the defendants named in paragraph VI hereof, claiming under said "Headlight Placer Mining Location" as aforesaid, either directly or through some agent or attorney, wrongfully and unlawfully

and in violation of the proprietary and other rights of this plaintiff, heretofore entered into possession of some part of said land, and now continues, and threatens and unless restrained therefrom will continue, to hold possession thereof, and further threatens to, and unless restrained therefrom will, drill oil wells thereupon and extract petroleum or mineral oil and gas therefrom, and otherwise commit trespass and waste thereupon, to the great and irreparable injury of this plaintiff.

X.

The defendant M. J. Laymance claims some right, title or interest in or to, or lien upon, said land, or some part thereof, or the right to extract minerals therefrom. The plaintiff does not know the nature or the alleged basis of said claim of interest, and has no means of ascertaining same except from said defendant; but in that behalf plaintiff alleges that said defendant has no right, title or interest in or to, or lien upon, said land or any part thereof, or any right to extract any of the minerals therefrom.

XI.

Except as in this bill stated, plaintiff has no knowledge or information concerning the exact nature or alleged basis of any of the claims asserted by the defendants herein, or any of them; and, therefore, leaves said defendants to set forth their respective claims of interest. [18]

In that behalf plaintiff alleges that, because of the premises of this bill, none of the defendants have or ever had any right, title or interest in or to, or lien upon, said land, or any part thereof, or any right or

interest in or to the petroleum or mineral oil or gas deposited therein, or any right to extract petroleum or mineral oil or gas, or any other mineral from said land, or any part thereof. On the contrary, each of said pretended placer mining locations is, and at all times has been, void and of no effect; and no rights whatever were ever acquired thereunder; and each and all of the aforesaid acts of the defendants herein in asserting an interest in or to said land, and in entering upon and taking and holding possession thereof, and in drilling and constructing oil wells thereupon, and in extracting, using and appropriating the petroleum or mineral oil and gas deposited therein, were and are in violation of the laws of the United States and the aforesaid orders withdrawing and reserving said land, and all of said acts were and are in violation of the proprietary and other rights of this plaintiff.

XII.

The present value of the land hereinbefore described exceeds five hundred thousand (500,000) dollars.

In consideration whereof, and inasmuch as plaintiff is without full and adequate remedy in the premises, save in a court of equity, where matters of this nature are properly cognizable and relievable, plaintiff prays:

1. That said defendants, and each of them, may be required to make full, true and direct answer respectively to all and singular the matters and things hereinbefore stated and [19] charged and to fully disclose and state their claims to said land herein-

before described, and to any and to all parts thereof, as fully and particularly as if they had been particularly interrogated thereunto, but not under oath, answer under oath being hereby expressly waived;

2. That the said land may be declared by this court to have been at all times from and after the 27th day of September, 1909, lawfully withdrawn from mineral exploration and from all forms of location, settlement, selection, filing, entry or disposal under the mineral or nonmineral public land laws of the United States:

3. That said defendants, and each of them, may be adjudged and decreed to have no estate, right, title, interest or claim in or to said land or any part thereof, or in or to any mineral or minerals or mineral deposits contained in or under said land or any part thereof; and that all and singular of said land, together with all of the minerals and mineral deposits, including mineral oil, petroleum and gas therein or thereunder contained, may be adjudged and decreed to be the perfect property of this plaintiff, free and clear of the claims of said defendants, and each and every one of them;

4. That each and all of the defendants herein, their officers, agents, servants and attorneys, during the progress of this suit, and thereafter, finally and perpetually, may be enjoined from asserting or claiming any right, title, interest, claim or lien in or to the said land or any part thereof, or in or to any of the minerals, or mineral deposits therein, or thereunder contained; and that each and all of the defendants herein, their officers, agents, servants and attor-

neys, during the progress of this suit, and theeafter, finally and perpetually may be enjoined from going upon any part or portion of said land, and from in any manner using any of said land and [20] premises and from in any manner extracting, removing or using any of the minerals deposited in or under said land and premises, or any part or portion thereof, or any of the other natural products thereof, and from in any manner committing any trespass or waste upon any of said land or with reference to any of the minerals deposited therein or thereunder, or any of the other natural products thereof;

5. That an accounting may be had by said defendants and each and every one of them, wherein said defendants, and each of them, shall make a full, complete, itemized and correct disclosure of the quantity of minerals (and particularly petroleum) removed or extracted or received by them or either or any of them, from said land, or any part thereof, and of any and all moneys or other property or thing of value received from the sale or disposition of any and all minerals extracted from said land or any part thereof, and of all rents and profits received under any sale, lease, tansfer, conveyance, contract or agreement concerning said land or any part thereof; and that the plaintiff may recover from said defendants, respectively, all damages sustained by the plaintiff in these premises;

6. That a receiver may be appointed by this court to take possession of said land and of all wells, derricks, drills, pumps, storage vats, pipes, pipe lines, shops, houses, machinery, tools and appliances of

every character whatsoever thereon belonging to or in the possession of said defendants, or any of them, which have been used or now are being used in the extraction, storage, transportation, refining, sale, manufacture, or in any other manner in the production of petroleum or petroleum products or other minerals from said land or any part thereof for the purpose of continuing, and with full power and authority to continue the operations on said land in the production and sale of petroleum and other minerals, and for the preservation, [21] protection and use of the wells, derricks, pumps, tanks, storage vats, pipes, pipe lines, houses, shops, tools, machinery and appliances being used by the defendants, their officers, agents or assigns in the production, transportation, manufacture or sale of petroleum or other minerals from said land or any part thereof, and that such receiver may have the usual and general powers vested in receivers of courts of chancery;

7. That the plaintiff may have such other and further relief as in equity may seem just and proper.

To the end therefore that this plaintiff may obtain the relief to which it is justly entitled in the premises, may it please Your Honors to grant unto the plaintiff a writ or writs of subpoena, issued by and under the seal of this Honorable Court, directed to the said defendants herein, to wit: Consolidated Midway Oil Company, National Pacific Oil Company, Midnight Oil Company, Daybreak Oil Company, Panama Oil Company, France Wellman Oil Company, Standard Oil Company, Thirty Thirty-Two Land Company, General Petroleum Company, Mari-

copa Consolidated Oil Company, General Pipe Line Company of California, Title Insurance and Trust Company, Sesame Oil Company, Parker Barrett, Oma Barrett, Julius Fried, J. M. Dunn, L. E. Doan, George E. Whitaker, M. J. Laymance, Mary F. Francis, A. L. Weil, Florence G. Weil, J. M. Danzinger, Daisy C. Danziger, M. P. Waite, Anna W. Mary Waite, Charles A. Son, David S. Bachman and A. B. Coulson, therein and thereby commanding them and each of them at a certain time, and under a certain penalty therein to be named, to be and appear before this Honorable Court, and then and there severally, full, true and direct answers make to all and singular the premises, but not under oath, answer under oath being hereby expressly waived, and [22] stand to perform and abide by, such order, direction and decree as may be made against them, or any of them, in the premises and shall be meet and agreeable to equity.

GEORGE W. WICKERSHAM,
Attorney General of the United States.

A. I. McCORMICK,
United States Attorney.

B. D. TOWNSEND,
Special Assistant to the Attorney General.

United States of America,
Southern District of California,
County of Los Angeles,—ss.

Gratz W. Helm, being first duly sworn, deposes and says:

I am now, and have been for more than four years last past, an employee and agent of the General Land

Office, Department of the Interior of the United States; at all times from and after the 1st day of July, 1910, I have been, and am now, Chief of Field Division of the General Land Office of the United States, assigned to duty and in charge of the public lands of the said United States, comprised in the Sixth Field Division in the Southern District of California, including the land described in the foregoing bill of complaint. During all of said times hereinbefore mentioned, under such employment, I have been engaged in field examinations and other investigations on behalf of the Department of the Interior, with reference to the administration of the public land laws of the United States and the enforcement and protection of the proprietary and other rights of the United States pertaining to said public lands. The acts and transactions referred to in [23] the foregoing bill of complaint with reference to said land in paragraph II thereof described, were investigated by me, as such employee and agent, and under my supervision, direction and control, and in this manner I acquired knowledge thereof. The same are true of my own knowledge, except as to the statements therein made on information and belief, and as to those matters, I believe them to be true.

My knowledge of the facts upon which the prayer for temporary relief by injunction and receivership in said bill is based, was obtained from an inspection of the records of the United States Land Office for the Los Angeles Land District, the records of the office of the county recorder, County of Kern, California, and an inspection and observation of the land

described in said bill of complaint, and operations conducted in and upon said land, and upon admissions and statements made by certain of the defendants and their duly authorized officers and agents.

GRATZ W. HELM.

Subscribed and sworn to before me this 18th day of February, 1913.

[Seal] WM. M. VAN DYKE,
Clerk of U. S. District Court for the Southern District of California, Southern Division. [24]

[Motion to Dismiss Bill of Complaint.]

In the District Court of the United States, Southern District of California, Northern Division, Ninth Circuit.

No. A-2—EQUITY.

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

CONSOLIDATED MIDWAY OIL COMPANY,
NATIONAL PACIFIC OIL COMPANY,
et al.

Defendants.

To the Honorable, the District Court of the United States for the Southern District of California, Northern Division, Ninth Circuit:

Defendants, Consolidated Midway Oil Company, National Pacific Oil Company, Thirty Thirty-two Land Company, General Petroleum Company, General Pipe Line Company of California, Maricopa Con-

solidated Oil Co., A. L. Weil, Florence G. Weil, J. M. Danziger, Daisy C. Danziger, M. P. Waite, Anna W. Mary Waite, Charles A. Son, David S. Bachman, hereby move that the Bill of Complaint in the above-entitled action and the whole thereof be dismissed for insufficiency of fact to constitute a valid cause of action in equity against the defendants or any of them in this:

That it appears from the said Bill of Complaint that defendants entered into the actual occupation of the land described thereon on March 1st, 1910, under Mineral Locations theretofore made and made a discovery of oil thereon prior to July 2d, 1910, to wit, on June 29th, 1910, and that at the [25] time of the Order of Withdrawal of date July 2d, 1910, the land had been theretofore located and claimed under the Mineral Laws of the United States by defendants and their grantors, who, prior to that date, were in actual occupation and possession thereof, under laws, and had theretofore made a valid and subsisting discovery of petroleum in said land;

That the basis of plaintiff's cause of action depends on an alleged withdrawal of said land on the 27th day of September, 1909, by the President of the United States acting by and through the Secretary of the Interior, and that the alleged withdrawal of said land from entry on the 27th day of September, 1909, was unconstitutional, void and of no force and effect, and beyond the authority of the President and contrary to the provisions of Chapter 6, of Title 32 of the Revised Statutes of the United States and the Act of Congress of February 11, 1897, 27 Stat.

L. 526 and the acts amending and supplementing the same;

That it further appears that no withdrawal of the minerals in said land was ever made.

A. L. WEIL,

Solicitor for Defendants, Consolidated Midway Oil Company, National Pacific Oil Company, Thirty Thirty-two Land Company, General Petroleum Company, General Pipe Line Company of California, A. L. Weil, Florence G. Weil, J. M. Danziger, A. C. Danziger, M. P. Waite, Anna W. Mary Waite, Charles A. Son and David Bachman.

[Endorsed]: Original No. A-2—In Equity. U. S. District Court, Southern District of California, Northern Division, Ninth Circuit. The United States of America, Plaintiff, vs. Consolidated Midway Oil Company et al., Defendants. Motion to Dismiss by Consolidated Midway Oil Co. et al. Received a copy of the within Motion to Dismiss this 20th day of May, 1913. A. I. McCormick, U. S. Attorney. A. L. Weil, Attorney at Law, 1206 Alaska Commercial Building, San Francisco, Cal. Filed May 20, 1913. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. [26]

In the District Court of the United States, Southern District of California, Northern Division, Ninth Circuit.

No. A-2—IN EQUITY.

THE UNITED STATES OF AMERICA,

Plaintiff,

versus

CONSOLIDATED MIDWAY OIL COMPANY,

National Pacific Oil Company, Midnight Oil Company, Daybreak Oil Company, Panama Oil Company, France Wellman Oil Company, Standard Oil Company, Thirty Thirty-Two Land Company, General Petroleum Company, Maricopa Consolidated Oil Company, General Pipe Line Company, of California, Title Insurance and Trust Company, Sesame Oil Company, Parker Barrett, Oma Barrett, Julius Fried, J. M. Dunn, L. E. Doan, George E. Whitaker, M. J. Laymance, Mary F. Francis, A. L. Weil, Florence G. Weil, J. M. Danziger, Daisy C. Danziger, M. P. Waite, Anna W. Mary Waite, Charles A. Son, David S. Bachman and A. B. Coulson,

Defendants.

Order Overruling Motions to Dismiss, and Appointing Receiver.

WHEREAS, motions to dismiss the bill of complaint in this suit were made by certain of the defendants herein, and were on January 3, 1914, and again on March 21, 1914, fully argued and submitted; and

WHEREAS, motions by the complainant for the appointment of a Receiver for the interests of the defendants Midnight Oil Company, Daybreak Oil Company, National Pacific Oil Company, [27] Consolidated Midway Oil Company, and A. L. Weil in the land described in the bill of complaint herein, together with all oil and other property on said land were on March 21, 1914, argued and submitted;

IT IS NOW CONSIDERED, ORDERED AND ADJUDGED that the motions of the defendants herein to dismiss are hereby overruled and denied, and each of the said defendants who made said motions to dismiss is allowed five days to file answer in addition to the time allowed by the New Equity Rules.

IT IS FURTHER ORDERED that A. E. Campbell, Esq., be, and he is hereby appointed Receiver of the property described in the bill of complaint herein claimed by the Midnight Oil Company, Daybreak Oil Company, National Pacific Oil Company, Consolidated Midway Oil Company, and A. L. Weil, to wit:

All of fractional Section Thirty, Township Twelve North, Range Twenty-three West, San Bernardino base and meridian, situated in Kern County, State of California, and of the oil, gas, and all other property of every kind M. T. D. situated on said land, or already extracted therefrom and still in the possession of defendants, and the defendants, and each of them, their agents, attorneys and employees are enjoined from removing said oil, gas, or other property or any part thereof from said land, or in any manner inter-

fering with the order of this Court, and are enjoined from further producing oil from said land, except by permission and under the direction of the said Receiver.

Said Receiver is directed to receive, and the said defendants are directed to surrender to said Receiver all moneys in their hands or in the hands of any person or corporation for them which are the proceeds of the sale of oil or gas produced [28] from said lands hereinbefore described, and the said Receiver is directed to collect any notes, accounts, or other evidences of debt due or payable on account of oil and gas produced from said land and sold by or for said defendants, or any of them.

The said Receiver is given power and directed to operate any oil or gas well or wells on said property, or to permit them to be operated by the respective defendants now in possession of or operating same, or who have heretofore operated on said lands; or to close said wells, if he deems it necessary or advisable to do so in order to conserve the oil and gas in said lands and prevent said property from being damaged or the oil and gas from being wasted.

The said Receiver is directed to ascertain the quantity of oil and gas heretofore extracted by said respective defendants, and to keep an accurate account of all oil and gas hereafter produced from said lands, and to sell said oil and gas for the best price obtainable.

For the purpose of making an investigation and determining the condition of the wells drilled on said lands, and particularly for the purpose of determin-

ing whether water is infiltrating the oil sands or reservoirs on said lands, and for the further purpose of ascertaining the amount of oil and gas heretofore produced, the price at which the same has been sold, and the value thereof, the Receiver is directed and empowered to examine the logs of the wells and the books of account kept by the defendants or any of them in the development and operation of said lands.

For the purpose of preventing damage to said lands by the infiltration of water into the oil sands and otherwise, and for the purpose of protecting and operating the said property, the said Receiver is authorized to employ such assistance and [29] incur such expense, to be paid out of the moneys coming into his hands as Receiver, as he shall deem necessary, subject to the approval of this Court. All moneys coming into the hands of said Receiver shall, unless otherwise directed by the Court, be deposited in a bank or banks to be selected jointly by the Receiver and the defendants who claim such moneys, or their respective solicitors of record, and the solicitor for the complainant, and such moneys shall be paid out by the said bank or banks only upon checks signed by said Receiver and by the said solicitors of record, or otherwise, as may be ordered by this Court.

A bond in the sum of Five Thousand (\$5,000) Dollars to be approved by this Court, shall be M. T. D. given by the Receiver within five days from the filing of this order; provided the solicitor for the complainant or for the defendants, or either of them, may at any time upon one day's notice to counsel for the opposite parties, apply to

the Court for an increase in the amount of said bond.

The amount of compensation to be paid to the Receiver in this suit is to be determined hereafter.

This April 23, 1915.

M. T. DOOLING,
United States District Judge.

[Endorsed]: No. A-2—Eq. U. S. District Court, Southern District of California. Northern Division. United States of America v. Consolidated Midway Oil Co, et al. Order Overruling Motions to Dismiss and Apptg. Receiver. Filed Apr. 26, 1915. Wm. M. Van Dyke, Clerk. By R. S. Zimmerman, Deputy Clerk. [30]

In the District Court of the United States, Southern District of California, Northern Division, Ninth Circuit.

No. A-2—IN EQUITY.

THE UNITED STATES OF AMERICA,

Plaintiff,

versus

CONSOLIDATED MIDWAY OIL COMPANY,
National Pacific Oil Company, Midnight Oil Company, Daybreak Oil Company, Panama Oil Company, France Wellman Oil Company, Standard Oil Company, Thirty Thirty-Two Land Company, General Petroleum Company, Maricopa Consolidated Oil Company, General Pipe Line Company of California, Title Insurance and Trust Company, Sesame Oil Company, Parker Barrett, Oma Barrett, Julius

Fried, J. M. Dunn, L. E. Doan, George E. Whitaker, M. J. Laymance, Mary F. Francis, A. L. Weil, Florence G. Weil, J. M. Danziger, Daisy C. Danziger, M. P. Waite, Anna W. Mary Waite, Charles A. Son, David S. Bachman and A. B. Coulson,

Defendants.

Petition for Order Allowing Appeal.

National Pacific Oil Company, a corporation, defendant herein, conceiving itself aggrieved by the Order given and rendered on the 23d day of April, 1915, and filed on the 26th day of April, 1915, in the above-entitled action, doth hereby appeal to the United States Circuit Court of Appeals for the Ninth Circuit, from that part of said order, a copy of which order is hereto annexed, which orders that:

“IT IS FURTHER ORDERED That A. E. Campbell, Esq., be [31] and he is hereby appointed Receiver of the property described in the bill of complaint herein claimed by the Midnight Oil Company, Daybreak Oil Company, National Pacific Oil Company, Consolidated Midway Oil Company, and A. L. Weil, to wit:

All of fractional Section Thirty, Township Twelve North, Range Twenty-three West, San Bernardino base and meridian, situated in Kern County, State of California,

and of the oil, gas, and all other property of every kind situated on said land or already extracted therefrom and still in the possession of defendants, and the defendants, and each of them, their agents, attorneys and employees are enjoined from removing

said oil, gas, or other property, or any part thereof from said land, or in any manner interfering with the order of this Court, and are enjoined from further producing oil from said land, except by permission and under the direction of the said Receiver.

Said Receiver is directed to receive, and the said defendants are directed to surrender to said Receiver all moneys in their hands or in the hands of any person or corporation for them which are the proceeds of the sale of oil or gas produced from said lands hereinbefore described; and the said Receiver is directed to collect any notes, accounts, or other evidences of debt due or payable on account of oil and gas produced from said land and sold by or for said defendants, or any of them.

The said Receiver is given power and directed to operate any oil or gas well or wells on said property, or to permit them to be operated by the respective defendants now in possession of or operating same, or who have heretofore operated on said lands; or to close said wells, if he deems it necessary [32] or advisable to do so in order to conserve the oil and gas in said lands and prevent said property from being damaged or the oil and gas from being wasted.

The said Receiver is directed to ascertain the quantity of oil and gas heretofore extracted by said respective defendants, and to keep an accurate account of all oil and gas hereafter produced from said lands, and to sell said oil and gas for the best price obtainable.

For the purpose of making an investigation and determining the condition of the wells drilled on said

lands, and particularly for the purpose of determining whether water is infiltrating the oil sands or reservoirs on said lands, and for the further purpose of ascertaining the amount of oil and gas heretofore produced, the price at which the same has been sold, and the value thereof, the Receiver is directed and empowered to examine the logs of the wells and the books of account kept by the defendants or any of them in the development and operation of said lands.

For the purpose of preventing damage to said lands by the infiltration of water into the oil sands and otherwise, and for the purpose of protecting and operating the said property, the said Receiver is authorized to employ such assistance and incur such expense, to be paid out of the moneys coming into his hands as Receiver, as he shall deem necessary, subject to the approval of this Court. All moneys coming into the hands of said Receiver shall, unless otherwise directed by the Court, be deposited in a bank or banks to be selected jointly by the Receiver and the defendants who claim such moneys, or their respective solicitors of record, and the solicitor for the complainant, and such moneys shall be paid out by the said bank or banks only upon checks signed by said Receiver [33] and by the said solicitors of record, or otherwise, as may be ordered by this Court.

A bond in the sum of Five Thousand (\$5,000) Dollars to be approved by this Court, shall be given by the Receiver within five days from the filing of this order; provided the solicitor for the complainant or for the defendants, or either of them, may at any

time upon one day's notice to counsel for the opposite parties, apply to the Court for an increase in the amount of said bond."

And defendant prays that this, its appeal, may be allowed; and that a transcript of the records and proceedings and papers upon which said order was made, duly authenticated, may be sent to the said United States Circuit Court of Appeals.

Dated 20th May, 1915.

A. L. WEIL,

Solicitor for Defendant, National Pacific Oil Company.

[Endorsed]: No. A-2—In Equity. District Court of United States, Southern District of California, Northern Division, Ninth Circuit. The United States of America, Plaintiff, versus Consolidated Midway Oil Company et al., Defendants. Petition for Order Allowing Appeal. Filed May 21, 1915. Wm. M. Van Dyke, Clerk. By R. S. Zimmerman, Deputy Clerk. A. L. Weil, Solicitor for Defendant, National Pacific Oil Company, Alaska Commercial Bldg., San Francisco, California. [34]

In the District Court of the United States, Southern District of California, Northern Division, Ninth Circuit.

No. A-2—IN EQUITY.

THE UNITED STATES OF AMERICA,

Plaintiff,

versus

CONSOLIDATED MIDWAY OIL COMPANY,

National Pacific Oil Company, Midnight Oil Company, Daybreak Oil Company, Panama Oil Company, France Wellman Oil Company, Standard Oil Company, Thirty Thirty-Two Land Company, General Petroleum Company, Maricopa Consolidated Oil Company, General Pipe Line Company, of California, Title Insurance and Trust Company, Sesame Oil Company, Parker Barrett, Oma Barrett, Julius Fried, J. M. Dunn, L. E. Doan, George E. Whitaker, M. J. Laymance, Mary F. Francis, A. L. Weil, Florence G. Weil, J. M. Danziger, Daisy C. Danziger, M. P. Waite, Anna W. Mary Waite, Charles A. Son, David S. Bachman and A. B. Coulson,

Defendants.

Assignment of Errors.

National Pacific Oil Company, a Corporation, defendant and appellant herein, having appealed, or being about to appeal, from that certain Order made in the District Court of the United States, for the Southern District of California, Northern Division,

Ninth Circuit, on the 23d day of April, 1915, and filed on the 26th day of April, 1915, in an action pending in said court in which The United States of America was plaintiff and the said National Pacific Oil Company, a corporation, and others were [35] defendants, by which said order a Receiver was appointed to take charge of the property of defendants, and each of them, says, that in the records and proceedings in the said court in the said action, there are manifest errors, and assigns the following as its assignment of errors upon the said appeal:

I.

That said District Court erred in making said order and appointing a Receiver.

II.

That said District Court, in making said order, erred in this, that said Court had not, nor had the Judge thereof, any jurisdiction to make the said order;

III.

That said District Court erred, in making said order, in this, that the said Court abused its discretion and permitted an abuse of discretion in making said order.

IV.

That said District Court erred, in making said order, in that the complaint of plaintiff in said action did not show facts justifying the appointment of a Receiver.

V.

That said District Court erred, in making said order, in that the complaint of plaintiff in the said

action fails to state any facts entitling the plaintiff herein to any equitable relief whatsoever.

VI.

That said District Court erred, in making said order, in authorizing and directing the receiver to take possession of the property mentioned in said order.

VII.

That said District Court erred, in making said order, in this, that defendant at that time and long prior thereto was in [36] the actual and peaceable possession of said property, claiming and holding the same under and by virtue of the laws of the United States, and that in and by the allegations of plaintiff's complaint herein, it appears that the plaintiff was and is out of possession. That it does not appear of record herein that an ancillary suit for the appointment of a Receiver had ever been commenced or brought by plaintiff against defendant. That plaintiff had and has a plain, speedy and adequate remedy at law, and said District Court, sitting as a Court of Equity herein, was and is without authority or jurisdiction to make said order.

In order that the foregoing assignment of errors may be and appear of record, the appellant above named presents the same to this Court, and prays that such disposition may be made thereof as by the law and the statutes of the United States in such case is made and provided.

A. L. WEIL,
Solicitor for Defendant and Appellant, National
Pacific Oil Company.

[Endorsed]: No. A-2—In Equity. District Court of United States, Southern District of California, Northern Division, Ninth Circuit. The United States of America, Plaintiff, versus Consolidated Midway Oil Company et al., Defendants. Assignment of Errors. Filed May 21, 1915. Wm. M. Van Dyke, Clerk. By R. S. Zimmerman, Deputy Clerk. A. L. Weil, Solicitor for Defendant National Pacific Oil Company, Alaska Commercial Bldg., San Francisco, California. [37]

In the District Court of the United States, Southern District of California, Northern Division, Ninth Circuit.

No. A-2.—IN EQUITY.

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

CONSOLIDATED MIDWAY OIL COMPANY,
National Pacific Oil Company, Midnight Oil Company, Daybreak Oil Company, Panama Oil Company, France Wellman Oil Company, Standard Oil Company Thirty Thirty-two Land Company, General Petroleum Company, Maricopa Consolidated Oil Company, General Pipe Line Company of California, Title Insurance and Trust Company, Sesame Oil Company, Parker Barrett, Oma Barrett, Julius Fried, J. M. Dunn, L. E. Doan, George E. Whitaker, M. J. Laymance, Mary F. Francis, A. L. Weil, Florence G. Weil, J. M.

Danziger, Daisy C. Danziger, M. P. Waite,
Anna W. Mary Waite, Charles A. Son, Davis S.
Bachman, and A. B. Coulson,

Defendants.

Order Allowing Appeal and Fixing Bond.

On motion of A. L. Weil, Esq., counsel for defendant, National Pacific Oil Company, a corporation, and on filing the petition of said defendant for an order allowing an appeal, together with an assignment of errors, IT IS ORDERED that an appeal be and is hereby allowed to the United States Circuit Court of Appeals, for the Ninth Circuit, from the order given and made herein on the 23d day of April, 1915, and filed on the 26th day of April, 1915, in the District Court of the United [38] States, for the Southern District of California, Northern Division, Ninth Circuit, appointing a receiver to take charge of the property of defendants, and each of them.

That the amount of the bond upon said appeal be and is hereby fixed at the sum of \$—— if the writ of supersedeas is desired.

That upon the execution and approval of said bond by this Court, a writ of supersedeas issue under the seal of this Court, directed to plaintiff herein, its agents and servants, and the Receiver appointed herein under said order, that they desist and refrain from, in any manner, interfering with said property, or in any manner enforcing or attempting to enforce said order of the 23d day of April, 1915, until said appeal be heard and determined, or the further order

of this Court. If a supersedeas is de-
M. T. D. sired appellant may apply therefor to the
Court of Appeals.

Dated 21 May, 1915.

M. T. DOOLING,
Judge.

[Endorsed]: No. A-2—In Equity. District Court of United States, Southern District of California, Northern Division, Ninth Circuit. The United States of America, Plaintiff, versus Consolidated Midway Oil Company et al., Defendant. Order Allowing Appeal and Fixing Bond. Filed May 21, 1915. Wm. M. Van Dyke, Clerk. By R. S. Zimmerman, Deputy Clerk. A. L. Weil, Solicitor for Defendant. National Pacific Oil Company, Alaska Commercial Bldg. San Francisco, California. [39]

Bond on Appeal.

KNOW ALL MEN BY THESE PRESENTS, That we, NATIONAL PACIFIC OIL COMPANY, as principal, and G. J. SYMINTON and R. E. MARYNARD, as sureties, are held and firmly bound unto THE UNITED STATES OF AMERICA in the full and just sum of FIVE HUNDRED DOLLARS, to be paid to the said THE UNITED STATES OF AMERICA, Its certain attorney, executors, administrators or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 21st day of

May in the year of our Lord One Thousand Nine Hundred and Fifteen.

WHEREAS, lately at a District Court of the United States for the Southern District of California, Northern Division, 9th Circuit, in a suit depending in said Court, between THE UNITED STATES OF AMERICA, Plaintiff, vs. CONSOLIDATED MIDWAY OIL COMPANY et al., Defendants, in which an order overruling motion to dismiss, and appointing a Receiver was rendered against the NATIONAL PACIFIC OIL COMPANY and the said NATIONAL PACIFIC OIL COMPANY having obtained from said Court an order allowing an appeal to reverse the said order in the aforesaid suit, and a citation directed to the said THE UNITED OF AMERICA citing and admonishing it to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at San Francisco, in the State of California.

NOW, THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That if the said NATIONAL PACIFIC OIL COMPANY shall prosecute its appeal to effect, and answer all damages and costs if it fail to make its plea good, then the above obligation to be void; else to remain in full force and virtue.

NATIONAL PACIFIC OIL COMPANY. (Seal)

E. B. KIDSON, (Seal)

Secretary.

G. J. SYMINTON. (Seal)

R. E. MAYNARD. (Seal)

Acknowledged before me the day and year first above written.

[Seal] BERTHA L. MARTIN,
Notary Public in and for the County of Los Angeles,
State of California.
United States of America,
Northern District of California,—ss.

G. J. Syminton and R. E. Maynard being duly sworn, each for himself, deposes and says, that he is a freeholder in said District, and is worth the sum of FIVE HUNDRED DOLLARS, exclusive of property exempt from execution, and over and above all debts and liabilities.

G. J. SYMINTON.
R. E. MAYNARD.

Subscribed and sworn to before me, this 21st day of May, A. D. 1915.

[Seal] BERTHA L. MARTIN,
Notary Public in and for the County of Los Angeles,
State of California.

[Endorsed]: No. A-2—In Equity. United States District Court for the Southern District of California, Northern Division, Ninth Circuit. The United States of America vs. Consolidated Midway Oil Company et al. Bond on Appeal of National Pacific Oil Company. Form of bond and sufficiency of sureties approved. M. T. Dooling, Judge. Filed Jun. 1, 1915. Wm. M. Van Dyke, Clerk. By Chas. H. Williams, Deputy Clerk. [41]

UNITED STATES OF AMERICA.

District Court of the United States, Southern District of California, Northern Division.

No. A.-2—EQ.

Clerk's Office.

THE UNITED STATES OF AMERICA,
vs.

CONSOLIDATED MIDWAY OIL CO et al.

Praecipe for Transcript of Record on Appeal.

To the Clerk of Said Court:

Sir: Please issue Transcript of record on appeal of defendant, National Pacific Oil Company, in the above-entitled action, containing the following papers therein, viz:

1. Bill of Complaint;
2. Motion of Said Defendant to Dismiss Bill of Complaint;
3. Order Overruling Motion to Dismiss and Appointing Receiver;
4. Petition for Order Allowing Appeal, Omitting Therefrom Copy of Order Overruling Motion to Dismiss, etc., Attached Thereto;
5. Assignment of Errors;
6. Order Allowing Appeal, and Fixing Bond; and
7. Bond on Appeal.

A. L. WEIL,

Solicitor for National Pacific Oil Co.

[Endorsed]: No. A-2—Eq. U. S. District Court,
Southern District of California, Northern Division.

The United States vs. Consolidated Midway Oil Co. et al. Praecipe for Transcript of Record on Appeal. Filed August 31, 1915. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy Clerk. [42]

[Certificate of Clerk U. S. District Court to Transcript of Record.]

In the District Court of the United States, in and for the Southern District of California, Northern Division.

No. A-2—EQUITY.

THE UNITED STATES OF AMERICA,

Plaintiff,

versus

CONSOLIDATED MIDWAY OIL COMPANY,
National Pacific Oil Company, Midnight Oil Company, Daybreak Oil Company, Panama Oil Company, Francee Wellman Oil Company, Standard Oil Company, Thirty Thirty-two Land Company, General Petroleum Company, Maricopa Consolidated Oil Company, General Pipe Line Company of California, Title Insurance and Trust Company, Sesame Oil Company, Parker Barrett, Oma Barrett, Julius Fried, J. M. Dunn, L. E. Doan, George E. Whitaker, M. J. Laymance, Mary F. Francis, A. L. Weil, Florence G. Weil, J. M. Danziger, Daisy C. Danziger, M. P. Waite, Anna W. Mary Waite, Charles A. Son, Davis S. Bachman, and A. B. Coulson,
Defendants.

I, Wm. M. Van Dyke, Clerk of the District Court of the United States of America, in and for the Southern District of California, do hereby certify the foregoing forty-two (42) typewritten pages, numbered from 1 to 42, inclusive, and comprised in one (1) volume, to be a full, true and correct copy of the Bill of Complaint, Motion to Dismiss Bill of Complaint, Order Overruling Motion to Dismiss and Appointing Receiver, Petition for Order Allowing Appeal, Assignment of Errors, Order Allowing Appeal and Fixing Bond, Bond, on Appeal and Praecept [43] for Transcript in the above and therein entitled cause, and that the same together constitute the record in said cause, as specified in the said Praecept filed in my office by the defendant and appellant, National Pacific Oil Company, by its attorney of record.

I do further certify that the cost of the foregoing record is \$23.15, the amount whereof has been paid me by the National Pacific Oil Company, the appellant in said cause.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the District Court of the United States of America, in and for the Southern District of California, Northern Division, this 8th day of September in the year of our Lord

one thousand nine hundred and fifteen, and of our Independence the one hundred and fortieth.

[Seal]

WM. M. VAN DYKE,

Clerk of the District Court of the United States of America, in and for the Southern District of California.

By Leslie S. Colyer,
Deputy Clerk.

[Ten Cent Internal Revenue Stamp. Canceled
9/8/15. L. S. C.] [44]

[Endorsed]: No. 2656. United States Circuit Court of Appeals for the Ninth Circuit, National Pacific Oil Company, a Corporation, Appellant, vs. The United States of America, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the Southern District of California, Northern Division.

Filed September 21, 1915.

FRANK D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

[Order Allowing Appellant to and Including August 19, 1915, to File Transcript on Appeal.]

In the District Court of the United States, Southern District of California, Northern Division, Ninth Circuit.

No. A-2—IN EQUITY.

UNITED STATES OF AMERICA,
Plaintiff and Respondent,
vs.

CONSOLIDATED MIDWAY OIL COMPANY
et al.,
Defendants and Appellants.

Good cause being shown therefor,

IT IS HEREBY ORDERED that the appellant National Pacific Oil Company have sixty (60) days additional and further time from the 20th day of June, 1915, within which to file its transcript on appeal in the above-entitled suit with the Clerk of the United States Circuit Court of appeals in and for the Ninth Circuit.

Dated June 16, 1915.

M. T. DOOLING,
Judge of the District Court.

[Endorsed]: No. A-2—In Equity. U. S. District Court, Southern District of California, Northern Division, Ninth Circuit. United States of America, Plaintiff and Respondent, vs. Consolidated Midway Oil Company et al., Defendants and Appellants. Order Extending Time to File Transcript on Appeal.

Filed Jun. 17, 1915. Wm. M. Van Dyke, Clerk.
By Chas. N. Williams, Deputy Clerk.

No. 2656. United States Circuit Court of Appeals
for the Ninth Circuit. Order Under Rule 16 Enlarg-
ing Time to Aug. 19, 1915 to File Record Thereof and
to Docket Case. Filed Sep. 7, 1915. F. D. Monckton,
Clerk. Refiled Sep. 21, 1915. F. D. Monckton,
Clerk.

[Order Allowing Appellant to and Including October
18, 1915, to File Transcript on Appeal.]

*In the District Court of the United States, Southern
District of California, Northern Division, Ninth
Circuit.*

No. A-2—IN EQUITY.

UNITED STATES OF AMERICA,
Plaintiff and Respondent,
vs.

CONSOLIDATED MIDWAY OIL COMPANY
et al.,
Defendants and Appellants.

Good cause being shown therefor,
IT IS HEREBY ORDERED that the appellant
National Pacific Oil Company have sixty (60) days
further time in addition to the time heretofore al-
lowed, within which to file its transcript on appeal in
the above-entitled suit with the Clerk of the United

States Circuit Court of Appeals in and for the Ninth Circuit.

Dated August 16, 1915.

ROSS,
Circuit Judge.

[Endorsed]: No. 2656. United States Circuit Court of Appeals, for the Ninth Circuit. United States of America vs. Consolidated Midway Oil Company et al. Order Extending Time to File Record. Filed Sep. 7, 1915. F. D. Monckton, Clerk. Refiled Sep. 21, 1915. F. D. Monckton, Clerk.